

The Commonwealth of Massachusetts  
Department of Energy Resources  
100 Cambridge Street, Suite 1020  
Boston, MA 02114  
<http://www.mass.gov/doer>



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Request for Proposals  
Massachusetts Solar Stimulus (MaSS) Program -  
Water and Wastewater Facilities  
ENE-2010-005



American Recovery and Reinvestment Act

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MaSS Program - Water and Wastewater Facilities  
Request For Proposal No. ENE-2010-005

## TABLE OF CONTENTS

### Contents

1.	PROCUREMENT CALENDAR.....	3
2.	CONTACT INFORMATION .....	3
3.	BACKGROUND, PURPOSE AND FEATURES OF THE PROCUREMENT.....	5
4.	SCOPE OF WORK TO BE PROVIDED BY CONTRACTOR .....	8
5.	ROLE OF PROGRAM PARTICIPANTS.....	10
6.	CONTRACT TERM.....	10
7.	GENERAL TERMS AND CONDITIONS OF THE RFP .....	11
8.	GENERAL TERMS AND CONDITIONS OF THE ESA .....	12
9.	INSTRUCTIONS FOR SUBMISSION OF A PROPOSAL .....	14
10.	EVALUATION AND AWARD .....	17
APPENDIX A.	PROGRAM PARTICIPANTS AND CAPACITY REQUESTS .....	A1
APPENDIX B.	DETAILED CHARACTERISTICS OF THE PREMISES .....	B1
APPENDIX C.	MAPS OF SOLAR TECHNICAL POTENTIAL ON THE PREMISES .....	C1
APPENDIX D.	NON-PRICE CRITERIA AND SCORING BREAKDOWN.....	D1
APPENDIX E.	PRICE PROPOSAL FORM .....	E1
APPENDIX F.	ENERGY SERVICES AGREEMENT .....	F1
APPENDIX G.	CONTRACT FOR GOOD-FAITH NEGOTIATIONS .....	G1
APPENDIX H.	DCAM CERTIFICATION PROCESS AND UPDATE STATEMENT.....	H1
APPENDIX I.	COMMON TECHNICAL SPECIFICATIONS .....	I1
APPENDIX J.	SITE-SPECIFIC TECHNICAL SPECIFICATIONS .....	J1
APPENDIX K.	RESPONDENT INFORMATION FORM.....	K1
APPENDIX L.	CERTIFICATE OF NON-COLLUSION.....	L1
APPENDIX M.	ATTESTATION REGARDING FILING OF TAX RETURNS .....	M1
APPENDIX N.	COMMONWEALTH OF MASSACHUSETTS STANDARD FORMS AND TERMS...	N1
APPENDIX O.	ARRA TERMS AND CONDITIONS .....	O1
APPENDIX P.	GOALS FOR PARTICIPATION BY MINORITY AND WOMEN BUSINESS ENTERPRISES .....	P1
APPENDIX Q.	CITY OF NEW BEDFORD APPRENTICESHIP AND TRAINING REQUIREMENTS.	Q1

## 1. PROCUREMENT CALENDAR

All dates are estimated and subject to change.

Issue RFP	September 15, 2009
Respondent Registration Due for Pre-Bid Conference Call	September 23, 2009 by 5:00 pm EST
Pre-Bid Conference Call	September 24, 2009 at 2:00 pm EST
Respondent Registration Due for Mandatory Site Visits	September 30, 2009 at 5:00pm EST
Mandatory Site Visits by Respondents	October 6-9, 2009
Deadline for Respondents to Submit Questions	October 16, 2009
Answers to Questions Posted on Comm-PASS	October 22, 2009
<b>Proposal Due</b>	<b>November 4, 2009 by 3:00 pm EST</b>
Selection of Shortlisted Respondents	November 18, 2009
Negotiation and Execution of Contracts with Program Participants	November 25, 2009 - January 15, 2010

## 2. CONTACT INFORMATION

This Request for Proposal (RFP) has been distributed electronically using the Commonwealth Procurement Access and Solicitation System (Comm-PASS system, <http://www.comm-pass.com>). The project name is Massachusetts Solar Stimulus (MaSS) Program - Water and Wastewater Facilities, and the project number is ENE-2010-005. Correspondence to DOER should include this project number as well as the title. Interested parties are advised to check the "last change" field on the summary page of this RFP on Comm-PASS to ensure that they have the most recent information. If you are having trouble viewing or downloading any of the files on Comm-PASS, please contact the Procurement Contact shown below.

Information submitted in response to this RFP is subject to the Massachusetts Public Records Law, M.G.L., Chapter 66, Section 10, and to Chapter 4, Section 7, Subsection 26. Any statements in submitted information that are inconsistent with these statutes shall be disregarded. The Commonwealth makes no guarantee that any services will be purchased from any contract resulting from this RFP.

All questions must be posted to the bidder's forum on Comm-PASS ([www.comm-pass.com](http://www.comm-pass.com)). All answers, notifications, releases and amendments to this RFP will be posted on Comm-PASS. To view the forum for this solicitation click on the "Forums" tab then "Search for a bidder's forum" and type in "RFP ENE-2010-005".

Participation in the pre-bid conference call requires registration in advance. Registration can be obtained by sending an email with "DOER SRF RFP Pre-Bid Registration" in the subject line to Karen Mahoney at: [Karen.mahoney@navigantconsulting.com](mailto:Karen.mahoney@navigantconsulting.com).

Participation in the mandatory site visit requires registration in advance. Registration can be obtained by sending the name of the person who will be attending along with his or her company name, address, and phone number to Natalie Howlett, the Procurement Contact, via e-mail at: [Natalie.howlett@state.ma.us](mailto:Natalie.howlett@state.ma.us).

Information submitted in response to this RFP must meet the content, quantity, site visit, DCAM certification and other requirements described in this RFP to be considered a valid Proposal. Proposals will be received by the Procurement Contact at the address noted below. Refer to Section 9 of this RFP for instructions on Proposal content, quantity, form and other requirements.

Procurement Contact:	Natalie Howlett Department of Energy Resources 100 Cambridge Street, Suite 1020 Boston, MA 02114
Telephone:	(617) 626-7343
Fax:	(617) 727-0030
E-mail:	<a href="mailto:natalie.howlett@state.ma.us">natalie.howlett@state.ma.us</a>
RFP Name:	MaSS Program - Water and Wastewater Facilities
RFP File Number:	ENE-2010-005

### **3. BACKGROUND, PURPOSE AND FEATURES OF THE PROCUREMENT**

The mission of the Massachusetts Department of Energy Resources (DOER) is creating a greener energy future for the Commonwealth, economically and environmentally, including:

- Achieving all cost-effective energy efficiencies,
- Maximizing development of greener energy resources,
- Creating and leading implementation of energy strategies to assure reliable supplies and improve relative cost, and
- Supporting clean tech companies and spurring clean energy employment.

As part of Governor Patrick's Massachusetts Recovery Plan to secure the state's economic future, the Commonwealth seeks to invest in solar photovoltaic (PV) energy generation on public facilities throughout the state, leveraging funds made available under the American Reconstruction and Recovery Act of 2009 (ARRA) to the greatest extent possible. Through the Energy Task Force of the Governor's Mobilization Effort conducted in preparation for ARRA, the Commonwealth identified locations at public facility sites potentially suitable for over 10 MWs of roof and ground-mounted PV installation in the aggregate.

Pursuant to its authority under M.G.L. c. 25A, §6, DOER is issuing several RFPs in a staggered sequence to complete these PV installations. This RFP is being issued to solicit design-build Proposals from qualified, interested parties ("Respondents"), with one ultimately selected to serve as the single Contractor, to design, procure, install, test, commission and provide related services for multiple solar PV power generating systems ("PV Systems") to be owned and operated by municipalities or agencies of the Commonwealth at each of 12 public water and wastewater facility sites ("Premises") with an estimated aggregate electric generating capacity of approximately 4.1 megawatts (the "Project") with an estimated value of approximately \$24 million. A list of the Premises and related public entities (the "Program Participants") and the requested electric capacity of their related PV System is provided in Appendix A.

On behalf of the Program Participants, DOER issues this RFP, pursuant to M.G.L. c. 25A, §11C, through the Comm-PASS system.

Key goals of this RFP are to:

- rapidly deploy large PV systems to create jobs quickly,
- foster expansion of the Massachusetts PV industry,
- reduce the long-term operating costs of the facilities,
- obtain extremely competitive pricing and streamline the purchase process via volume procurements, and
- provide maximum transparency and accountability.

#### **A. Contracting**

As described in Section 10 of this RFP, DOER and the Program Participants will utilize a unique multi-step evaluation, award, negotiation and contracting process to ensure fair consideration of all Respondents and the needs of each Program Participant. This process includes 1) submittal with the Proposal of a signed Contract for Good Faith Negotiations between the Respondent and DOER, 2) evaluation and selection of one Respondent (a “Shortlisted Respondent”) to negotiate a unique Energy Service Agreement (“ESA”) with each Program Participant over a limited time period, and 3) potential disqualification and selection of an alternative Shortlisted Respondent upon failure to negotiate all the ESAs. The un-signed Contract for Good Faith Negotiations is provided in Appendix G. A draft form ESA is provided in Appendix F. Respondents should review Section 10 for details of the process.

Specific terms of the ESA may be modified by negotiation between the Shortlisted Respondent and the Program Participant including the size of the PV System which may be increased based on available Project funding. However, such negotiated terms 1) shall not cause material changes to the quality, cost, schedule, performance or other aspects of the PV Systems identified in the Respondent’s Proposal that would adversely affect the value of the PV Systems to the Program Participant, and 2) must be consistent with the terms of this RFP, including the ARRA terms and conditions in Appendix O and the General terms and conditions in Sections 7 and 8.

DOER will not be a party to any ESA. However, DOER will review and approve the terms and conditions of each ESA as a condition precedent for funding of the work under the ESA. ARRA funding for this Project shall be subject to a separate agreement between the Program Participant and Massachusetts Water Pollution Abatement Trust.

## **B. Firm and Non-Firm Price Components**

As shown in Appendix E to this RFP, each Respondent must propose a Total Installed Cost for each PV System segregated into firm and non-firm categories. Firm costs will not be subject to change for the duration of the evaluation and the ESA. Non-firm costs will be subject to change as change orders under the ESA. Non-firm costs include the cost of site preparation, regulatory approval and local electric utility interconnection. In the event that site preparation requirements, regulatory approval requirements or local utility interconnection requirements are significantly different than those that were used by the Contractor at the time of estimating the non-firm costs, then the Contractor may submit a change order request under the ESA.

## **C. DCAM Certification**

For a submission to be considered a valid Proposal, the Respondent must be certified as an Electrical or Energy Management System contractor by the Massachusetts Division of Capital Asset Management (DCAM), and the Proposal must include an Update Statement from DCAM. Refer to Appendix H of this RFP for details concerning DCAM certification. If the Respondent is a joint venture, then each member of the joint venture must be DCAM certified.

## **D. ARRA Requirements**

The Contractor will be subject to the ARRA requirements described in Appendix O, in particular those pertaining to the “contractor” and “subcontractors” such as use of apprentices, job posting, special reporting, Buy American, consultant payments, and Davis-Bacon prevailing wage.

## **E. M/WBE Requirements**

The Respondent is subject to the Special Provisions for Minority/Women Business Enterprises (M/WBEs) established by the Department of Environmental Protection, Division of Municipal Services (“M/WBE Requirements”). A copy of these M/WBE Requirements is provided in Appendix P. These M/WBE Requirements will supersede M/WBE related requirements of any locality for the purposes of this procurement, so the Respondent will not be subject to any local requirements related to M/WBE.

The percentage of business activity to be performed by M/WBEs must not be less than the percentages shown in the M/WBE Requirements. The Respondent must submit a Schedule of Participation and Letters of Intent on the forms provided (see forms EEO-DEP-190 and EEO-DEP-191) which list those M/WBE firms the Respondent intends to use in fulfilling the ESA obligations, the nature of the work to be performed by each M/WBE subcontractor and the total price they are to be paid.

In the event that a Respondent is unable to meet the M/WBE participation goals, the Respondent may submit a Request for Waiver (EEO-DEP-490) to DOER no later than five (5) working days following submission of their Proposal, along with detailed information to establish that they have made a good faith effort to comply with the percentage goals.

#### **F. Special Requirements for New Bedford**

For New Bedford, the Respondent is subject to the apprenticeship, training, and pre-qualification requirements ("New Bedford Requirements"). Copies of the New Bedford Requirements are provided in Appendix Q.

### **4. SCOPE OF WORK TO BE PROVIDED BY CONTRACTOR**

The following is a summary description of the key scope of work and responsibilities of the Contractor and is provided as a convenience to potential Respondents.

Respondents should refer to the draft form ESA attached to this RFP for a complete description of the scope of work and responsibilities. Should a conflict arise between this description and that of the ESA, the ESA shall govern.

#### **A. PV System Installation**

Pursuant to the ESA, the Contractor shall provide a complete "turn-key" PV System to the Program Participant at each of the Premises. Installation includes the design, engineering, site preparation, physical construction and wiring, testing, grid connection, all permitting and local utility arrangements necessary to effect such connection, and appropriate warranty.

The Contractor must train staff at the Premises of each Program Participant on how to properly operate and maintain the PV Systems. At least 8 hours of training shall be provided for 5 people at each Premises (40 manhours). The training shall cover principles of operation, routine maintenance and safety issues that are specific to the PV



Systems installed. After commissioning of a PV System, the Program Participant will be responsible for the operation and maintenance of the PV System, except for those activities for which the Contractor will be responsible pursuant to the warranty.

## **B. Performance and Schedule Guarantees**

The Proposal must include PV System performance guarantees (“Performance Guarantees”) to ensure that the objectives of the procurement are met. The Performance Guarantees and related performance testing shall meet the Technical Specifications as set forth in Appendix I. The Proposal must also include a date for each PV System for which the Respondent guarantees that on or before that date it will achieve Substantial Completion (as defined in the ESA) of that PV System (“Schedule Guarantees”). For any PV System, the Schedule Guarantee cannot be more than 18 months beyond the date of ESA execution pertaining to that PV System. The specific Performance Guarantees and Schedule Guarantee must be provided as part of the non-price information shown in Appendix D.

## **C. Utility Interconnection and Net Metering**

From time to time, the energy output of the PV System may exceed the electric load of the Program Participant’s facility at the Premises. To the extent that the PV System output is greater than the facility load at any time, such excess output will be delivered to the local utility on a net metered basis. The local utility associated with each of the Premises is shown in Appendix B.

The Contractor is responsible for all aspects of the local electric utility interconnection. An application must be submitted to the local electric utility to start the formal interconnection process, and sufficient lead time should be allowed to successfully achieve interconnection based on the local electric utility interconnection standards. All PV Systems must have an appropriate electric utility interconnection agreement in place at the time of interconnection to the local electric utility system.

## **D. Premises to be Served**

The Premises to be served by the PV Systems are described in Appendix B. Note that site preparation activities necessary for installation of the PV Systems (see Appendix J) are considered to be within the scope of work to be provided by the Contractor. These activities may include, but are not limited to minor modifications to roofs or roof structures for roof mounted PV Systems, and site preparation and support facilities

construction (e.g., leveling, fencing, lighting, roads, buildings, etc.) for ground-mounted PV Systems. Modifications to roofs and other structures must be such as to not void any warranties or impair the roof longevity. This RFP is not a solicitation for the installation of substantially new roof systems or roofing materials; any such work would be provided under a separate contract pursuant to a separate solicitation conducted by the Program Participant.

Each Respondent will be responsible for obtaining information about the conditions at the Premises which the Respondent deems necessary to undertake for the Project. DOER will arrange site visits, which are mandatory for Respondents as part of the RFP process according to the Procurement Calendar set forth in Section 1. During each site visit with the exception of the MWRA Carroll Water Treatment Plant, available engineering drawings and electrical drawings will be provided on CD to the Respondents in attendance. Any solar feasibility studies and PV system design drawings for the sites will be posted as separate files under the Specifications Tab on Comm-PASS. For any trouble regarding viewing or downloading any of the files on Comm-PASS please contact the Procurement Contact. Respondents must obtain, measure, and collect all other information necessary for preparing a fully informed Proposal.

## **5. ROLE OF PROGRAM PARTICIPANTS**

To facilitate the development of the PV System at the Premises, subject to agreement between the Contractor and the Program Participants, each Program Participant shall:

- 1) provide reasonable access to the Premises for site visits;
- 2) upon execution of the ESA, grant site access to the Contractor to allow the Contractor to undertake the Project;
- 3) to the extent reasonable and appropriate, provide information to the selected Contractor to assist the selected Contractor in securing any permits for the Project, including, but not limited to, local board approvals; and
- 4) cooperate with the selected Contractor to the extent reasonable and appropriate on remaining issues with respect to access, construction and interconnection.

## **6. CONTRACT TERM**

The Contract for Good Faith Negotiations must be executed prior to the initiation of negotiations of the ESAs between the Contractor and Program Participants. All ESAs

must be executed by January 15, 2010. The duration of the ESAs will be subject to negotiation by the Contractors and the Program Participants.

## **7. GENERAL TERMS AND CONDITIONS OF THE RFP**

- 1) The selection of a Shortlisted Respondent and subsequent execution of a Contract for Good Faith Negotiations is determined in part on the key personnel, subcontractors and joint venture partners (if any) proposed by the Shortlisted Respondent. DOER reserves the right to terminate the Contract for Good Faith Negotiations at any time, should written or oral presentations by the Shortlisted Respondent indicate that such key personnel or partners presented in the Proposal will not be involved as represented.
- 2) In preparation of its Proposal, a Respondent is expected to have made a thorough investigation of all Premises, local conditions, preliminary data furnished to the Respondent with this RFP, and any other information concerning the Premises which can affect the work and services. Each Respondent is required to visit each of the Premises listed in Appendix A as arranged by DOER on the dates set forth in the Procurement Calendar. Each Respondent shall be expected to thoroughly examine all of the contract documents (located in Appendix F and Appendix G) and the Technical Specifications (located in Appendix I and Appendix J), as well as applicable federal, state and local laws, ordinances, resolutions, rules, regulations, codes, circulars, guidelines, environmental documents and other permits applicable to the work and services.
- 3) Respondents are prohibited from communicating directly with any employee of DOER or the Program Participants for the purpose of gathering information for the RFP except as specified in this RFP. Proposals will be evaluated based upon only information in the RFP, questions, and addenda. No Commonwealth employee or representative is authorized to provide any formal information or respond to any question or inquiry concerning this RFP, unless otherwise approved by DOER. All questions must be forwarded to the Procurement Contact identified in Section 2 of this RFP. All questions must be submitted in writing (either by fax, e-mail, or regular mail) to the Procurement Contact no later than October 16, 2009.
- 4) DOER will not consider any proposals submitted by Respondents which are comprised in whole or in part, directly or indirectly (e.g., without limitation,

through ownership or control), of individuals or entities which have directly or indirectly had any involvement in the Project which is the subject of this RFP ("involvement" means, without limitation, activity relating to engineering, planning, environmental or other consulting). However, DOER will consider proposals from individuals or entities that have not been involved in the Project which is the subject of this RFP, but that have been involved in the design and/or construction of other DOER projects.

- 5) Architectural, engineering, cost estimating, testing or any other consultants or sub-contracting firms that participated in any way, as a direct consultant to DOER or the Program Participants during the development of this RFP or provided any prior study, planning, environmental or other services with respect to this RFP are excluded from providing any services related to this RFP to firms submitting Proposals in response to this RFP. DOER will disqualify any proposal from any such firm, or that includes such a firm as a subcontractor to provide services on this Project. Respondents are encouraged to obtain a signed affidavit from architectural, engineering, cost estimating, testing or any other consulting or sub-consulting or sub-contracting firms confirming that they have had no prior involvement with the RFP's development or study, planning, environmental or other services with respect to this Project.
- 6) DOER reserves the right to cancel this RFP at any time before it executes a Contract for Good Faith Negotiation with each Shortlisted Respondent, in which event, DOER will reject all Proposals received in response to this RFP. Submission of a Proposal, or consideration of a Proposal by DOER and the Program Participants shall not obligate the Commonwealth to execute any contract with a Respondent.

## **8. GENERAL TERMS AND CONDITIONS OF THE ESA**

The following is a summary description of the key terms and conditions of the ESA provided as a convenience to potential Respondents. Respondents should refer to the draft form ESA attached to this RFP for a complete description of the terms and conditions. Should a conflict arise between this description and that of the ESA, the ESA shall govern.

- 1) For each ESA, prior to execution, the Contractor shall provide the Program Participant with Payment and Performance Bonds to cover the full term and value of the ESA during the installation phase as described in the ESA.

- 2) Ultimate Acceptance. The Program Participant retains ultimate acceptance over scope of work, equipment installed, design, and end use conditions for the PV Systems installed at its Premises. The Program Participant shall review and accept, but not approve specific sub-contractors used by the Contractor, other than for M/WBE work as described in Appendix P. No work can proceed without the prior written consent of the Program Participant. However, such consent shall not be unreasonably withheld.
- 3) Submission and Acceptance of System Modifications. The Program Participant will review all proposed modifications to the building, site and systems at the Premises and must approve such proposed modifications prior to commencement of any work. Such acceptance shall not be unreasonably withheld.
- 4) Massachusetts Building Code. All work shall meet the minimum standards of the Massachusetts Building Code.
- 5) The Contractor and any sub-contractor(s) shall comply with the provisions of Massachusetts General Laws, pertaining to the "Prevailing Wage Laws" and the Davis-Bacon Act for the Project. As required, the Contractor and/or any sub-contractor(s) must certify and submit weekly payroll forms to the Program Participant and other reports as may be necessary to comply with the American Recovery and Reinvestment Act. Mass General Laws c. 149, section 27, as amended on August 8, 2008, requires annual updates to prevailing wage schedules for all public construction projects lasting longer than one year. The Contractor will be required to obtain the wage schedules from awarding authorities (the Program Participants), and to pay no less than these rates to covered workers. The Contractor and all subcontractors are required to anticipate such annual updated prevailing wage schedules and neither the Contractor nor any subcontractors shall be entitled to claim additional compensation for base contract work due to updated prevailing wage schedules.
- 6) Insurance. The Contractor must carry an appropriate level of insurance for the term of the ESA. For the MWRA Carroll Treatment Plant Premises, see the insurance requirements shown in Appendix J. For the other Premises, see Section 26 of the ESA (Appendix F of this RFP) for the required types and levels of insurance.

- 7) Access and Inspection. The Program Participant must have access to inspect both the work conducted at the Premises during construction and operations phases, and to the Contractor's books, records, and other compilations of data which pertain to the performance of the provisions and requirements of the ESA. Records shall be kept on a generally recognized accounting basis, and calculations shall be kept on file in legible form.
- 8) Assignment of Contract. Assignment of any portion of the work by subcontract other than that specified in the ESA (Appendix F) must be approved in advance by the Program Participant. The Contractor will not be permitted to either assign or underlet the ESA, nor assign either legally or equitably any monies hereunder, or its claims thereto, without the prior written consent of the Commonwealth and the Program Participant.
- 9) Ownership of Documents. All drawings, reports and materials prepared by the Respondent specifically in performance of the ESA shall become the property of the Program Participant and shall be delivered by the Contractor to the Program Participant as needed or upon ESA termination.
- 10) Immigration/Naturalization. The Contractor must comply with the Immigration and Naturalization requirements in Section 50 of the ESA (Appendix F).
- 11) Health, Safety, and Accident Prevention. The Contractor must comply with the safety procedures in Section 46 of 50 of the ESA (Appendix F).
- 12) Permits. The Contractor is required to apply for and obtain all applicable permits for work prior to installation, including building and other permits.

## 9. INSTRUCTIONS FOR SUBMISSION OF A PROPOSAL

A Proposal must contain the transmittal letter, non-price, price and other components described below (a "Proposal Package"). **The Proposal Package must be received by DOER by 3:00 pm on November 4, 2009. Late responses will not be accepted.** All correspondence and filings submitted to DOER shall be directed to the Procurement Contact, Natalie Howlett, at the postal address set forth in Section 2.

## A. Contents of the Proposal Package

The Proposal Package must contain the following components:

- 1) **Transmittal Letter** – A sealed envelope labeled with the Respondent’s name and the words, “Transmittal Letter,” must contain one original hard copy with blue ink signatures, plus five (5) additional hard copies, and a CD with an electronic copy (in searchable pdf format) of the transmittal letter.
- 2) **Non-Price Proposal** – A sealed envelope labeled with the Respondent’s name and the words, “Non-Price Proposal,” must contain one original hard copy with blue ink signatures, plus five (5) additional hard copies, and a CD with an electronic copy (in searchable pdf format) of the non-price response.
- 3) **Price Proposal** – A sealed envelope labeled with the Respondent’s name and the words, “Price Proposal,” must contain one original hard copy plus five (5) additional hard copies, and a CD with an electronic copy (in searchable pdf format) of the price response.

Details regarding the content of each of these components are provided in Section B below.

Once the Contractor is selected, *all* submissions will be subject to Public Record disclosure and will be posted online on the Comm-PASS system.

## B. Description of Proposal Package Components

- 1) **Transmittal Letter** – The transmittal letter should highlight any special features of the Proposal, and include the name, phone number, and email address for the point of contact for the Respondent. It must also include 1) a statement that the Respondent participated in each site visit, and 2) a list of the name and title of each person from the Respondent that attended each site visit. The transmittal letter should be signed by a representative of the Respondent who has the authority to bind the Respondent.
- 2) **Non-Price Proposal**, which must include the following:
  - a) Written response to all of the non-price evaluation elements included in Appendix D.
    - i. Other than biographies, financial statements, PV System layout diagrams, copies of PV panel and inverter supply contracts, and system design

drawings, the Respondent should keep their non-price evaluation write-up concise.

- ii. In its Proposal, the Respondent should size the PV Systems according to the Program Participants' requested system size as shown in Appendix A.
- b) DCAM Certification and Update Statement (both in Appendix H).
- c) Appendix K, Appendix L, Appendix M, Appendix Q documents, and the Commonwealth documents referenced in Appendix N.
- d) A version of the Contract for Good Faith Negotiations executed by the Respondent (Appendix G).

### 3) **Price Proposal**

- a) Complete table in Appendix E in its entirety.
  - i. As noted under the Non-Price Proposal above, in its proposal, the Respondent should size the PV Systems according to the Program Participant's requested system size as shown in Appendix A.
- b) Completed Schedule of Participation and all Letters of Intent for M/WBE participation as described in Appendix P. Alternatively, Respondent may submit a Request for Waiver form and all required supporting documentation.

As shown in Appendix E to this RFP, each Respondent must propose a Total Installed Cost for each PV System segregated into firm and non-firm categories. Firm costs will not be subject to change for the duration of the evaluation and the ESA. Non-firm costs will be subject to change only as change orders under the ESA, due to discovery of previously unknown buried utilities, hazardous substances, electric utility interconnection costs, force majeure and other limited conditions as allowed under the change order provisions of the ESA. A Program Participant may subsequently request an increase or decrease in PV System size during negotiation of an ESA with a Shortlisted Respondent, subject to the funding level constraints of the Program Participant. Respondents may not propose pricing structures other than those listed in Appendix E. Respondents must submit bids for all Premises listed in Appendix A.



### C. **Withdrawal or Modification of Proposal Package**

- 1) A Respondent may withdraw or modify its Proposal by written request at any time prior to the RFP submission deadline. Telephonic submittals, amendments, or withdrawals will not be accepted.
- 2) Unless otherwise specified, no Proposal may be withdrawn for a period of 120 days following the submittal deadline. Negligence on the part of the Respondent in preparing the Proposal confers no rights for the withdrawal of the Proposal after it has been opened.
- 3) Proposals received prior to the 3 p.m. on November 4, 2009 will be securely kept unopened. No responsibility will attach to an officer or person for the premature opening of a Proposal not properly addressed and identified.
- 4) Any Respondent taking exception to, or questioning any of the provisions, procedures, conditions or specifications herein stated should make such exceptions known through the question submittal process outlined in the Procurement Calendar.
- 5) It is the Respondent's responsibility to regularly check Comm-PASS for any updates or changes to this RFP.

## **10. EVALUATION AND AWARD**

### A. **Process**

Once the submittal deadline has passed, all Proposal Packages will be opened, and the sealed envelopes containing the Transmittal Letter and the Non-Price Proposal will be opened for review by the evaluation committee. The sealed Price Proposal envelopes will remain in the Proposal Packages.

- 1) **Threshold Evaluation** - For each Transmittal Letter and Non-Price Proposal, the evaluation committee will first determine if certain threshold requirements have been met. These include
  - a) that the Respondent was present at the mandatory site visit for each of the Premises,
  - b) that a response to each of the items requested in Appendix D has been provided,

- c) the Proposal includes PV Systems for each Premises and each has been sized to equal the Program Participant's requested system size as shown in Appendix A,
- d) that the Respondent is DCAM Certified, and
- e) that versions of the Appendix G, Appendix K, Appendix L, Appendix M, Appendix Q documents, and Appendix N documents have been executed by the Respondent and submitted.

Non-Price Proposals that pass these threshold criteria will advance into the Non-Price evaluation as described below. For those that do not, DOER will return the entire Proposal Package to the Respondent, including the still sealed Price Proposal. DOER and the Program Participants reserve the right to reject any or all Proposals for any reason, to waive any technical defect or informality in Proposals received or to allow the Respondent to correct them, and to accept or reject any Proposal or portion thereof. DOER and the Program Participants reserve the right to seek additional information from any and all Respondents including but not limited to requests for clarifications and interviews.

- 2) **Non-Price Evaluation** - Each Non-Price Proposal that has passed the threshold review will be further reviewed by the evaluation committee. The committee will assign a numeric score for each criteria area, subject to the maximum scores as listed in Appendix D. Based on these numeric scores, the evaluation committee will select a minimum of three Non-Price Proposals to advance to the Price Proposal Evaluation Stage described below. For those that do not advance, DOER will return the entire Proposal Package to the Respondent, including the still sealed Price Proposal. The Authority reserves the right to select finalists to participate in the cost proposal stage.
- 3) **Price Evaluation** - For those Proposals that advance from the Non-Price evaluation stage, the corresponding Price Proposals and the Schedule of Participation and Letters of Intent forms for M/WBE participation (Appendix P) will be opened for review by the evaluation committee. The evaluation committee will confirm that the Schedule of Participation and Letters of Intent are valid and show that the participation goals will be met. If the Respondent has instead submitted a Request for Waiver from the M/WBE Requirements, the evaluation committee will begin review of the request and will rule on the waiver within 15 days. The committee will then evaluate the Price Proposals relative to the Non-Price Proposals, and, after making a determination on any

Request for Waiver, select the Respondent whose overall Proposal provides the best value to the Program Participants. This Respondent will be considered as Shortlisted Respondent 1. The committee will also select a Respondent whose overall Proposal provides the second best value to the Program Participants. This Respondent will be considered Shortlisted Respondent 2.

#### **B. DOER Good-Faith Contract Execution**

All Respondents will be notified in writing of the identity of the selected Shortlisted Respondents. Within five (5) business days of announcement of the Shortlisted Respondents, DOER will execute the Contract for Good Faith Negotiation submitted by Shortlisted Respondent 1 with its Proposal (Appendix G). Shortlisted Respondent 1 may then begin negotiation with the Program Participants towards execution of a unique ESA with each Program Participant. DOER will execute the Contract for Good Faith Negotiation submitted by Shortlisted Respondent 2 if and when necessary due to failure of Shortlisted Respondent 1 to negotiate unique ESAs with the Program Participants as described below.

#### **C. Program Participant ESA Negotiation and Execution**

Shortlisted Respondent 1 shall have the first opportunity to negotiate and execute an ESA with each Program Participant. DOER reserves the right to disqualify Shortlisted Respondent 1 from negotiating with a Program Participant if DOER reasonably determines that Shortlisted Respondent 1 is failing to negotiate in good faith with that Program Participant. In such instance, DOER shall direct that Program Participant to negotiate with Shortlisted Respondent 2 under the conditions described in the Contract for Good Faith Negotiations. Negotiation and execution of all ESAs must be completed by January 15, 2010.